

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HENRY A. HALL and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, Bellmawr, NJ

*Docket No. 01-1815; Submitted on the Record;
Issued July 2, 2002*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant sustained any permanent impairment to his right hand due to his March 16, 1991 employment injury.

This case was previously before the Board. By decision dated December 29, 1998, the Board remanded the case for further development of appellant's schedule award claim.¹ The history and facts of this case set forth in the Board's 1998 decision are herein incorporated by reference.

On March 16, 1991 appellant, then a 33-year-old mail processor, sustained a right wrist sprain in the performance of duty.

In a report dated February 17, 2000, Dr. Richard J. Mandel, a Board-certified orthopedic surgeon and an Office referral physician, diagnosed scapholunate disassociation of the right wrist and indicated that this condition had been accepted by the Office as work-related. He provided findings on examination and stated that appellant had a 16 percent permanent impairment of the right wrist based on the A.M.A., *Guides*.

By decision dated April 27, 2000, the Office of Workers' Compensation Programs granted appellant a schedule award for 49.92 weeks based on a 16 percent permanent impairment of the right arm.

By letter dated May 3, 2000, appellant requested an oral hearing that was held on September 20, 2000.

By decision dated December 14, 2000, the Office hearing representative remanded the case for further development. He stated that Dr. Mandel should be asked to determine whether appellant's scapholunate tear was causally related to the March 16, 1991 employment-related

¹ Docket No. 97-1106 (issued December 29, 1998).

right wrist sprain and to provide an impairment rating for all conditions causally related to the March 16, 1991 employment injury.

In a report dated March 15, 2001, Dr. Mandel indicated that he had erroneously calculated appellant's permanent impairment based on his scapholunate ligament tear. He stated:

"Based upon the history provided by [appellant] and review of voluminous records including new records which include...a wrist arthrogram from September of 1991 and a bone scan from April of 1991, it is my opinion that the scapholunate ligament disruption was not caused by the 1991 work injury.

"The disruption was present in September of 1991 as documented by the right wrist arthrogram of September 5, 1991. The pertinent question is when did this ligament disruption occur. It is my conclusion that it did not occur as a result of any work injury that occurred on or about March 16, 1991 for two reasons. First of all, [appellant's] description of the injury does not describe a mechanism that could result in such a ligament disruption. The ligament in question is an extremely strong and stout ligament which requires tremendous force to disrupt. The injury as described clearly did not correlate with a traumatic disruption of this ligament. Second, the bone scan performed in April of 1991 did not reveal a pattern consistent with an acute scapholunate ligament disruption. It is my conclusion, therefore, that the scapholunate ligament disruption occurred either significantly earlier than March of 1991 or after the bone scan but before the arthrogram was completed. It is my conclusion that the scapholunate ligament injury, which is his ongoing injury, was not caused by or affected by his work activities. This appears to be a non-work related injury.

"The physical limitations and impairment rating that I calculated related to the scapholunate ligament tear. It is now evident that this is non-work related. [Appellant] has no restrictions and no impairment based upon any work injury."

By decision dated April 18, 2001, the Office found that appellant was not entitled to an increase in his schedule award because his scapholunate ligament disruption was not causally related to his 1991 employment injury. The Office further found that, because appellant had been awarded his schedule award based upon incorrect information in Dr. Mandel's February 17, 2000 report, an overpayment now existed for the period February 17, 2000 through February 1, 2001.

The Board finds that appellant did not sustain any permanent impairment to his right hand due to his March 16, 1991 employment injury.

The schedule award provisions of the Federal Employees' Compensation Act² and its implementing regulation³ set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* (hereinafter, the A.M.A., *Guides*) has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.

In a report dated March 15, 2001, Dr. Mandel indicated that he had erroneously calculated appellant's permanent impairment based on appellant's scapholunate ligament tear. He stated his opinion that the scapholunate ligament disruption was not caused by appellant's 1991 work injury and provided medical rationale for his opinion. Dr. Mandel indicated that the impairment rating that he provided in his February 17, 2000 report, which was the basis of the Office's April 27, 2000 decision granting appellant a schedule award, was calculated based on the scapholunate ligament tear. He stated that appellant had no impairment based upon any work injury. Therefore, the Office properly found in its April 18, 2001 decision that appellant was not entitled to a schedule award for the right wrist.

On appeal, appellant contends that there is an unresolved conflict between Dr. Mandel and appellant's physicians, Dr. Davis Weiss and Dr. Elliot Ames.⁴ However, Dr. Weiss' impairment rating and Dr. Ames report were based upon the condition of a scapholunate ligament tear which, as noted above, is not an accepted condition in this case. Therefore, appellant is not entitled to a schedule award based on the report of Drs. Weiss and Ames.

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.404.

⁴ In a report dated October 25, 1993, Dr. Weiss, appellant's Board-certified orthopedic surgeon, diagnosed a tear of the scapholunate ligament of the right wrist and scapholunate disassociation of the right wrist and hand. He provided findings on examination and stated that appellant had a 90 percent permanent impairment of the right hand for loss of strength. In a report dated September 11, 1991, Dr. Ames, a specialist in hand surgery, diagnosed a torn scapholunate ligament but did not provide an opinion as to the cause of the condition.

The decisions of the Office of Workers' Compensation Programs dated April 18, 2001 and December 14, 2000 are affirmed.

Dated, Washington, DC
July 2, 2002

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member